IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.81 OF 2007

1.Vikas (Vishwas) Janardan Jadhav, &
2.Uttam Sambaji Shivsharan. ...Petitioners.
Versus
The State of Maharashtra. ...Respondent.

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Mr.S.V.Kotwal, Advocate for the Petitioners.
Mr.K.V.Saste, APP, for State.

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CORAM : SMT.V.K.TAHILRAMANI,J.
DATED : 25th June, 2007.

P.C.:

1. Heard the learned Advocate for the petitioners and the learned APP for the State.

2. The petitioners are facing prosecution in Sessions Case No.310 of 2005. The said case pertains to C.R.No.59 of 2005 of Sadar Bazar Police Station. The said case is under Section 302 read with 34 of IPC.

3. The first informant is Ratan Kamble (deceased). He has stated that on 8.2.2005, the petitioners approached him and enquired as to whom the complainant was abusing. Thereafter both of them beat him with fist blows. The complainant came to be

rescued by one Sachin Waghmare and one another person. Thereafter, when the complainant was returning, the petitioners again abused him and assaulted him by fist blows and kick blows. The complainant has stated that as he was hurt in the abdomen, he fell down. Thereafter the persons who were nearby rescued him. As the pain in his stomach became more intense he went to the hospital. The complainant died on 16.3.2005 on account of scepticemia due to intra abdominal abscess extending into parietal wall with fecal, fistula due to blunt abdominal trauma in a operated case of incision and drainage of above abscess.

4. Mr.Kotwal, the learned Advocate for the petitioners has submitted that it cannot be said to be a case under Section 302 of IPC as there was no intention on the part of the petitioners to cause death of Ratan Kamble nor was there any knowledge on their part that the death of Ratan Kamble would be caused by their act. The injured witness has clearly implicated the petitioners. He has stated the role played by the petitioners. Whether there was intention or knowledge on the part of the petitioners that death of Ratan Kamble would be caused is a

aspect which can be best appreciated only after the evidence has been led. At this stage, on the basis of material which is on record one cannot reach only one inference i.e. the petitioners did not have the intention or knowledge that their act would cause death of deceased Ratan. In my view, there is sufficient material to proceed. Hence, I do not think that this is a fit case to discharge the petitioners.

5. Application is rejected.

(SMT.V.K.TAHILRAMANI,J.)